

REMARKS

SUMMARY

Reconsideration of the application is respectfully requested.

Claims 45-53, 60-67, and 75-113 were rejected in the above-identified Office Action. Claims 45, 46, 60, 66, 75, 83, 84, and 92 are amended, and claims 80, 88, and 97 are cancelled. No new matter has been introduced. Accordingly, claims 45-53, 60-67, 75-79, 81-87, 89-96, and 98-113 remain pending in the application.

DRAWINGS

In "Drawings," item 2 on pages 2-3 of the above-identified Office Action, the Examiner objects to the drawings, especially figures 4, 6A, 6B, and 7 for failing to show every feature of the invention. More particularly, the Examiner states that the adjustable angle between the first and second portions of the support surface is not shown.

Applicant respectfully disagrees with the Examiner. Figures 1, 8A, and 8B each show the adjustable angle between the portions (shown as element 108 in Figure 1). While Figures 4, 6A, 6B, and 7 do not include an element denoting the adjustable angle, such an adjustable angle is implicitly present in each drawing. Portions of the Detailed Description corresponding to Figures 4, 6A, 6B, and 7 explicitly refer to prior descriptions, including descriptions corresponding to Figure 1, when discussing the positioning of the seat and back (first and second) portions (see page 17, lines 22-23, page 18, lines 1-2, and page 19, lines 1-6). Accordingly, the drawings amply illustrate the adjustable angle. Thus, Applicant respectfully requests that the Examiner withdraw the objection.

CLAIM OBJECTIONS

In "Claim Objections," item 3 on page 3 of the above-identified Office Action, the Examiner objects to an informality in claim 83. In response, Applicant has amended claim 83, obviating the objection.

CLAIM REJECTIONS UNDER 35 U.S.C. § 112

In “Claim Rejections – 35 USC § 112,” item 7 on page 4 of the above-identified Office Action, claims 66 and 101-109 have been rejected as being indefinite under 35 U.S.C. § 112, second paragraph.

Regarding claim 66, the Examiner states that the recitation of “can be” renders that claim indefinite. In response, Applicant has amended claim 66, overcoming the Examiner’s rejection.

Regarding claims 101-109, the Examiner asserts that the recitation “an angle between the first portion and the second portion is adjustable” in independent claim 101 renders claim 101 and dependent claims 102-109 indefinite because it “does not have detailed support in the instant specification.” Applicant respectfully disagrees. In addition to the figures and passages cited above as showing such an adjustable angle, Applicant also directs the Examiner’s attention to paragraph 29 (page 12, lines 11-17) and to paragraphs 51-52 (page 22, lines 15-23 and page 23, lines 1-13) of the Detailed Description. These and the above-cited Figures and passages provide detailed, explicit support for the adjustable angle recitations. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections of claims 101-109.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102

1. In “Claim Rejections – 35 USC § 102,” item 9 on page 5 of the above-identified Office Action, claims 45-50, 60-64, 67, 75-79, 81-82, 84-87, 89-90, 92-96, 98-99, 101-105, 107-108, and 110-111 have been rejected as being fully anticipated by U.S. Patent No. 5,682,626 to *Banks, Jr. et al.* (hereinafter “Banks, Jr.”) under 35 U.S.C. § 102(b).

Claims 45-50, 60-64, 67, 75-79, 81-82, 84-87, 89-90, 92-96, and 98-99

In response to the Examiner's rejections of claims 45-50, 60-64, 67, 75-79, 81-82, 84-87, 89-90, 92-96, and 98-99, Applicant has amended independent claims 45, 46, 60, 75, 84, and 92, overcoming the Examiner's rejections.

Amended claim 75 calls for an "apparatus comprising:

a support surface having a seat portion and a back portion, wherein the seat portion and the back portion form a non-planar surface and the seat portion is sloped to position a human's buttocks lower than the human's knees when the human is supported on the support surface, the seat portion having an aperture opening toward the back portion so that when the human is supported on the support surface the human's anus is positioned over the aperture, and the aperture provides access, from behind the human and behind the back portion of the support surface, to a lower spinal region of the human's anatomy."

In contrast, Banks, Jr. does not teach or suggest that seat 20 of chair 10 is sloped such that a seated human's knees would be positioned higher than the human's buttocks. Rather, Banks, Jr. teaches a stationary chair 10 with a seat 20 that is level to the ground and a back 15 that is perpendicular to the ground. The chair 10 of Banks, Jr. facilitates hydro-therapy of vaginal, anal, and/or perineal areas of a human seated in the chair through an opening 22 in seat portion 20. The chair 10 is designed to be located in a bath tub so that water run-off does not damage surrounding areas. Below seat 20 is a hydropad 52 adapted to shoot jets of water through opening 22 at areas of the seated human needing therapy.

As is shown, seat 20 is not sloped. Seat 20 is not described as sloped anywhere in Banks, Jr. Also, Bank, Jr. teaches away from sloping seat 20. Seat 20 and pad 52 must be parallel so that water massages appropriate areas. And for pad 52 to work efficiently, pad 52 must itself be parallel to the ground. Any sloping of pad 52 would cause additional gravitational stresses on the operation of hydropad 52. Thus, one skilled in the art would have no motivation to slope the hydro pad 52, or, resultantly, seat 20.

Additionally, amended claim 75 incorporates fully the limitations of cancelled claim 80. Claim 80 is not rejected under Banks, Jr. Thus, for at least the reasons Banks, Jr. failed to anticipate claim 80, Banks, Jr. also fails to anticipate amended claim 75.

Accordingly, amended claim 75 is patentable over Banks, Jr. under §102(b).

Amended claims 45, 46, 60, 84, and 92 includes similar language to that of amended claim 75. Thus, for at least the same reasons, amended claims 45, 46, 60, 84, and 92 are patentable over Banks, Jr.

Claims 47-50, 61-64, 67, 76-79, 81-82, 85-87, 89-90, 93-96, and 98-99 depend from amended claims 45, 46, 60, 75, 84, and 92, incorporating their limitations respectively. Thus, for at least the same reasons, claims 47-50, 61-64, 67, 76-79, 81-82, 85-87, 89-90, 93-96, and 98-99 are patentable over Banks, Jr.

Claims 101-109

Claim 101 recites a “support surface for a human comprising:

a first portion having an aperture; and

a second portion flexibly coupled with the first portion, wherein the aperture extends toward the second portion and an angle between the first portion and the second portion is adjustable so that when the human is supported on the support surface the human's anus is proximate to the aperture, and the aperture provides access, from behind the human and behind the back portion of the support surface, to a lower spinal region of the human's anatomy.”

In contrast, the seat 20 and back 15 of the chair 10 of Banks, Jr., described in greater detail above, are not shown to be or described as flexibly coupled. Rather, they are shown in Figure 1 as being attached by a static frame. In fact, Figure 1 shows back 15 as being locked in place by a horizontal stabilizer 40, the stabilizer 40 attached to walls by suction cups 42.

Thus, seat 20 and back 15 are not “flexibly coupled”, and the “angle between the first portion and the second portion” is not adjustable, as is recited in claim 101.

Accordingly, claim 101 is patentable over Banks, Jr. under §102(b).

Claims 102-109 depend from claim 101, incorporating its limitations. Thus, for at least the same reasons, claims 102-109 are patentable over Banks, Jr.

Claims 110-113

Claim 101 recites a “support surface for a human comprising:

a back portion having an aperture;

a seat portion having an aperture opening toward and merging with the aperture in the back portion to form a composite aperture wherein the human's anus is to be positioned proximate to the composite aperture;

a frame coupling the seat portion with the back portion;

means for viewing to facilitate viewing a portion of the human; and

means for privacy to limit a view of the human.”

In contrast, chair 10 of Banks, Jr. comprises no means for privacy to limit a view of the human. The backside of chair 10, which allows for a view of a seated human, is totally uncovered. In fact, no portion of chair 10, illustrated in Figure 1, provides any sort of means for privacy.

On page 6 of the above-identified Office Action, the Examiner asserts that the tub shown in Figure 1 provides a means for privacy. Applicants respectfully disagree. As shown, the tub does not shield the human from viewing and provides no privacy. The distances shown between the walls of the tub and the chair 10 allow ample room for viewing the human and would provide no privacy to the seated human from others in the same area.

Accordingly, claim 110 is patentable over Banks, Jr. under §102(b).

Claims 111-113 depend from claim 110, incorporating its limitations. Thus, for at least the same reasons, claims 110-113 are patentable over Banks, Jr.

2. In “Claim Rejections – 35 USC § 102,” item 10 on page 11 of the above-identified Office Action, claims 60, 65-66, 75, 80-84, 88-92, 97-101, 106-110, and 112 have been rejected as being fully anticipated by U.S. Patent No. 6,073,277 to *Banks* (hereinafter “Banks”) under 35 U.S.C. § 102 (b).

Claims 60, 65-66, 75, 80-84, 88-92, 97-100

As described above, amended claim 75 recites a support surface having means for providing mobility to the support surface.

The rejections of claims 80, 88, and 97 are obviated by their cancellations.

In contrast, Banks, does not teach or suggest that seat 11 of chair 10 is sloped such that a seated human’s knees would be positioned higher than the human’s buttocks. Rather, Banks, teaches a stationary chair 10 with a seat 11 that is level to the ground and a back 13 that is perpendicular to the ground. The chair 10 of Banks facilitates hydro-therapy of vaginal, anal, and/or perineal areas of a human seated in the chair through an opening 15 in seat portion 11. The chair 10 is a conventional bath chair (Banks, col 2., lines 28-40) designed to be located in a bath tub so that water run-off does not damage surrounding areas. Below seat 11 is a hydrotherapy aerating pad 10A adapted to shoot jets of water through opening 15 at areas of the seated human needing therapy.

As is shown, seat 11 is not sloped. Seat 11 is not described as sloped anywhere in Banks. Also, Bank teaches away from sloping seat 11. Seat 11 and pad 10A must be parallel so that water massages appropriate areas. And for pad 10A to work efficiently, pad 10A must itself be parallel to the ground. Any sloping of pad 10A would cause additional

gravitational stresses on the operation of pad 10A. Thus, one skilled in the art would have no motivation to slope the pad 10A, or, resultantly, seat 11.

Accordingly, amended claim 75 is patentable over Banks under §102(b).

Claims 60, 84, and 92 recited similar limitations to those of claim 75, and thus are patentable over Banks for at least the same reasons.

Claims 65-66, 81-83, 89-91, 98-100 depend from claims 60, 75, 84, and 92, incorporating their limitations, respectively. Accordingly, claims 65-66, 81-83, 89-91, 98-100 are patentable over Banks.

Claims 101 and 106-109

As described above, claim 101 recites a support surface comprised of flexibly coupled first and second portions, where the angle between the portions is adjustable.

In contrast, Banks does not disclose flexibly coupled first and second portions. Like Banks, Jr., Banks is also directed to a chair 10 with an opening 15 to facilitate hydro-therapy. And, as shown in Figure 1, the seat and back of chair 10 are fixed in their positions. There is no discussion at any point in Banks of the seat and the back being flexibly coupled to allow the angle between them to be adjusted.

Accordingly, claim 101 is patentable over Banks under §102(b).

Claims 106-109 depend from claim 101, incorporating its limitations. Accordingly, claims 106-109 are patentable over Banks under §102(b).

Claims 110 and 112

As described above, claim 110 recites a support surface having means for privacy to limit a view of the human.

In contrast, Banks does not disclose a means for privacy to limit a view of the human. Like Banks, Jr., Banks is also directed to a chair 10 with an opening 15 to facilitate hydro-therapy. And, as shown in Figure 1, no covering is depicted for opening 15 of chair 10, providing no means of privacy. Also, there is no discussion at any point in Banks of providing any means of privacy.

Additionally, claims 78, 86, and 95, which recite means for privacy to limit a view of the human, are not rejected by the Examiner as anticipated by Banks, further evidencing that Banks does not teach or suggest a support surface having means for privacy to limit a view of the human.

Accordingly, claim 110 is patentable over Banks under §102(b).

Claim 112 depends from claim 110, incorporating its limitations. Accordingly, claim 112 is patentable over Banks under §102(b).

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

1. In “Claim Rejections – 35 USC § 103,” item 12 on page 15 of the above-identified Office Action, claim 113 has been rejected as being unpatentable over Banks, Jr. under 35 U.S.C. § 103 (a). Applicants respectfully disagree.

Claim 113 depends from claim 110, incorporating its limitations. Thus, for at least the same reasons given above for claim 110, claim 113 is patentable over Banks, Jr.

2. In “Claim Rejections – 35 USC § 103,” item 13 on page 15 of the above-identified Office Action, claims 51-53 have been rejected as being unpatentable over Banks, Jr. in view of U.S. Patent No. 5,461,738 to *Kimura et al.* (hereinafter “Kimura”) under 35 U.S.C. § 103 (a). Applicants respectfully disagree.

Kimura fails to cure the above discussed deficiencies of Banks, Jr. Therefore, claim 46 remains patentable over Banks, Jr. even when combined with Kimura.

Claims 51-53 depend from claim 46, incorporating its limitations. Thus, for at least the same reasons, claims 51-53 are patentable over Banks, Jr. and Kimura, alone or in combination.

3. In “Claim Rejections – 35 USC § 103,” item 14 on page 16 of the above-identified Office Action, claims 51-53 have been rejected as being unpatentable over Banks in view of Kimura under 35 U.S.C. § 103 (a). Applicants respectfully disagree.

Kimura fails to cure the above discussed deficiencies of Banks. Therefore, claim 46 remains patentable over Banks even when combined with Kimura.

Claims 51-53 depend from claim 46, incorporating its limitations. Thus, for at least the same reasons, claims 51-53 are patentable over Banks and Kimura, alone or in combination.

CONCLUSION

In view of the foregoing, Applicant submits that claims 45-53, 60-67, 75-79, 81-87, 89-96, and 98-113 are in condition for allowance. Accordingly, a Notice of Allowance is respectfully requested. If the Examiner has any questions concerning the present paper, the Examiner is kindly requested to contact the undersigned at (206) 407-1513. If any fees are due in connection with this paper, the Commissioner is authorized to charge Deposit Account 500393.

Respectfully submitted,
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